

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BRIAN BAGLEY,

Plaintiff,

ORDER

-vs-

19-CV-6242 CJS/MJP

MARK EIFERT, Personal Capacity of a
N.Y.S. Trooper (I.D. 161), *et al.*,

Defendants.

On January 5, 2022, the undersigned issued an Amended Scheduling/Case Management Order (ECF No. 100) directing that dispositive motions in this action be filed by February 14, 2022. On January 28, 2022, the Ontario County Defendants filed a motion to adjourn the dispositive-motion filing deadline by 30 days. (ECF No. 108). On January 28, 2022, the Honorable Mark W. Pedersen, United States Magistrate Judge, issued a text order (ECF No. 109) setting a briefing schedule on Ontario County Defendants' application. That same day, the New York State Defendants filed an application (ECF No. 111) joining in the County Defendants' request for a 30-day extension of the deadline for filing dispositive motions, until March 14, 2022.

However, prior to any ruling by Magistrate Judge Pedersen, on February 14, 2022, the New York State Defendants filed a motion for summary judgment (ECF No. 111), thereby mooting their request for additional time. (See, Order of Magistrate Judge Pedersen denying State Defendants' request as moot, ECF No. 114).

On February 14, 2022, the Court received a letter (ECF No. 112) dated January 9, 2022, from Plaintiff to Magistrate Judge Pedersen, reiterating a prior request for an assigned attorney that Judge Pedersen had denied.

On February 15, 2022, Magistrate Judge Pedersen granted Ontario County Defendants' request for additional time (ECF No. 108) and directed that any additional

dispositive motions be filed by March 14, 2022. (ECF No. 113).¹

On March 3, 2022, Plaintiff filed a letter motion (ECF No. 116) requesting additional time to respond to the State Defendants' summary judgment motion. On March 4, 2022, County Defendants wrote to Judge Pedersen indicating that they interpreted Plaintiff's motion (ECF No. 116) as requesting additional time to respond to all dispositive motions, and that they did not oppose Plaintiff's request.

On March 14, 2022, County Defendants filed their motion for summary judgment. (ECF No. 119).

On March 18, 2022, Plaintiff filed two documents. First, Plaintiff filed a letter (ECF No. 120) dated March 11, 2022, inquiring about the status of his request for additional time to respond to dispositive motions, and indicating his belief that his response to State Defendants' dispositive motion was due on March 14, 2022. Additionally, Plaintiff filed a submission entitled "Motion for Movement of Summary Judgement With Dispositive Motions Against Defendants," ECF No. 121, signed by Plaintiff on March 13, 2022. The submission (ECF No. 121) stated that it was filed in opposition to the New York State Defendants' summary judgment motion. A cover letter accompanying the submission indicated that Plaintiff was filing the response since he had not yet received a ruling on his request for additional time to respond to the defendants' dispositive motions.

On March 30, 2022, the State Defendants filed a reply (ECF No. 122) in support of their motion for summary judgment. The reply indicated that Plaintiff had not filed a counter-statement of facts as required by the Local Rules and that the State movants were also entitled to summary judgment.

On April 6, 2022, Plaintiff filed a letter (ECF No. 123) purporting to respond to statements in the State Defendants' reply papers.

On April 20, 2022, Plaintiff filed a document entitled "Motion for Movement of Summary Judgment With Dispositive Motions Against Defendants" (ECF No. 124) in response to the County Defendants' summary judgment motion.

The Court having considered all of the foregoing, and taking into consideration

¹ Plaintiff consented to the County Defendants' request. ECF No. 115.

Plaintiff's status as a *pro se* prisoner, it is hereby

ORDERED, that insofar as Plaintiff's submission, ECF No. 112, is intended as a renewed motion for assignment of counsel, the application is denied, since Plaintiff, while not an attorney, has demonstrated his ability to respond to Defendants' dispositive motions; and it is further

ORDERED, that Plaintiff's request (ECF No. 116) for additional time to respond to Defendants' motions is granted *in that* the Court deems the two submissions that he has already filed (ECF Nos. 121 & 124) in response to the State Defendants' and County Defendants' respective dispositive motions as having been timely filed;² and it is further


ORDERED, that the only additional briefing that will be accepted concerning the pending dispositive motions is a reply from the County Defendants, provided that it is filed in accordance with the deadline set by the Local Rules of Civil Procedure; and it is further

ORDERED, that unless the Court later indicates otherwise in a subsequent order, the Court will not hear oral argument on the subject dispositive motions (ECF Nos. 111 & 119) and will issue a written decision at its earliest opportunity.

SO ORDERED.

Dated: Rochester, New York
April 28, 2022

ENTER:


CHARLES J. SIRAGUSA
United States District Judge

² Although Plaintiff captioned those submissions as "motions," they appear to be responses to Defendants' motions as opposed to true cross-motions.